

Return Date: September 17, 2018  
Time: 9:30 A.M.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK  
(CENTRAL ISLIP)

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**NOTICE OF MOTION FOR RELIEF  
FROM THE AUTOMATIC STAY**

In Re:

Chapter 7

**CEZARY S. WYSOCKI,**

Case No. 1-18-74507 (REG)

Debtor.

-----X

TO ALL PARTIES:

**PLEASE TAKE NOTICE**, that upon the annexed affirmation of The Law Office of Robert L. Gordon, by Robert L. Gordon, Esq., dated August 6, 2018, and upon the Affidavit of Mark Novin, sworn to on the 6<sup>th</sup> day of August, 2018, the undersigned as counsel for 140-50 Burden Crescent Owners Corp. (“Creditor”) shall move for an order before the Honorable Robert E. Grossman, United States Bankruptcy Judge, at the United States Bankruptcy Courthouse, located at 290 Federal Plaza, Courtroom 860, Central Islip, New York, on the 17<sup>th</sup> day of September, 2018, at 1:30 o'clock p.m. in the afternoon of said day, vacating the automatic stay pursuant to §362(d) of the Bankruptcy Code by reason that the Debtor has failed to pay post-petition rent for the cooperative premises at Apartment 2E, 140-50 Burden Crescent, Briarwood, New York 11435 (“Unit”). The Proposed Order, a copy which is annexed hereto, will seek to grant the Creditor the following relief:

- (a) Granting Creditor relief from the automatic stay provisions of 11 U.S.C. §362; and
- (b) Permitting Creditor to execute upon a warrant of eviction to be issued pursuant to a

judgment to granted in New York City Landlord/Tenant Court against the Debtor; and

(c) Permitting to Creditor to foreclose upon the cooperative shares of stock and proprietary lease allocated to the Unit.

(d) Granting such other, further relief as to this Court may seem just and proper.

Dated: Palisades, New York  
August 21, 2018

Yours, etc.  
LAW OFFICE OF ROBERT L. GORDON  
Attorney for Creditor  
140-50 Burden Crescent Owners Corp.  
21 Swan Street  
Palisades, New York 10964  
(718) 267-9513

By: S/Robert L. Gordon  
Robert L. Gordon ( RG3443)

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK  
(CENTRAL ISLIP)

-----X

**ORDER FOR RELIEF  
FROM THE AUTOMATIC STAY**

In Re:

Chapter 7

**CEZARY S. WYSOCKI,**

Case No. 1-18-74507 (REG)

Debtor.

-----X

The Creditor, 140-50 Burden Crescent Owners Corp., having moved this Court before the Honorable Robert E. Grossman, United States Bankruptcy Court Judge, on the 17<sup>th</sup> day of September, 2018, for an Order pursuant to §362(d)(1) and (2) of the Bankruptcy Code vacating the automatic stay and permitting the foreclosure of the cooperative shares of stock and proprietary lease allocated to the Debtor's apartment located at Unite 2E, 140-50 Burden Crescent, Briarwood, New York 11435; and

This Court having read and filed and Creditor's Notice of Motion dated August 21, 2018, the Creditor's Attorney's Affirmation in support of the motion, dated August 21, 2018, together with the Affidavit of Mark Novin, sworn to the 6<sup>th</sup> day of August, 2018; and

The Creditor having appeared by Law Office of Robert L. Gordon, by Robert L. Gordon, Esq., of counsel in support thereof, and Debtor having neither appeared nor having filed opposition to the Creditor's motion, and this Court after due deliberation having rendered its decision on the motion; and

**NOW ON MOTION**, of Law Office of Robert L. Gordon, attorneys for the Creditor, it is hereby

**ORDERED**, that the Creditor's motion to vacate the automatic stay pursuant to §362(d) of the Bankruptcy Code in order to take appropriate steps to execute upon a warrant of eviction to be awarded under summary proceedings against the Debtor in New York City Landlord-Tenant Court, for the Debtor's eviction from the Units is hereby granted; and it is

**FURTHER ORDERED**, Creditor is hereby granted leave to foreclose upon the cooperative shares of stock and proprietary lease allocated to the Units, provided that surplus proceeds, if any, shall be turned over to the Trustee

Dated: Central Islip, New York  
September 17, 2018

ENTER:

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Honorable Robert E. Grossman, U.S.B.J.

Return Date: September 17, 2018  
Time: 9:30 A.M.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK  
(CENTRAL ISLIP)

-----X  
In Re:

**AFFIRMATION IN SUPPORT OF  
MOTION FOR RELIEF FROM THE  
AUTOMATIC STAY**

**CEZARY S. WYSOCKI,**

Chapter 7

Debtor.

Case No. 1-18-74507 (REG)

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TO: Honorable Robert E. Grossman  
United States Bankruptcy Judge

Robert L. Gordon, an attorney admitted to practice law before the Courts of the State of New York, affirms the truth of the following under the penalties of perjury:

I am the attorney for the Creditor in the within action and as such am fully familiar with the facts and circumstances of this matter. All of the relevant facts with references to same are more particularly set forth in the annexed affidavit of Mark Novin, the managing agent for the Creditor.

1. On or about July 3, 2018, Cezary S. Wysocki (the “Debtor”) commenced the above-captioned case under Chapter 7 of the Bankruptcy Code.

2. Creditor is the fee title owner of the premises known as 140-50 Burden Crescent, Briarwood, New York 14435, and Debtor owns the cooperative shares of stock and appurtenant proprietary lease allocated to unit 2E (“Unit”).

3. Debtor has failed to pay post-petition maintenance charges to Creditor at the monthly rate of \$452.03 for the Unit, such that \$860.32 in base post-petition rent is presently due and owing.

Additionally, Debtor owes Creditor \$5,419.86 in pre-petition arrears, as well as the legal fees and disbursements for the instant motion.

4. The Creditor is entitled to relief from the automatic stay so as to enable the Creditor to complete fully a summary proceeding in New York State Civil Court for the Debtor's eviction, as well as to foreclose upon the cooperative shares of stock and proprietary lease allocated to the Debtor's Unit.

5. The Debtor has evidenced an inability to adequately protect the Creditor's interest in the premises. It is respectfully submitted that for this reason, the automatic stay provision of §362 of the Bankruptcy Code should be vacated as to the Creditor.

6. The Debtor is abusing and flouting the bankruptcy system to the detriment of the Creditor. Such contumacious conduct should not be lightly countenanced by this Court.

7. It is obvious from all the documents that there are no outstanding issues of fact or law, thereby requiring this Court to grant the relief requested herein.

8. No previous application for the relief sought herein has been made.

9. This Affirmation does not raise any novel issues of law, and accordingly, Creditor respectfully requests that the requirement under Local Bankruptcy Rule 13(b) for the submission of a memorandum of law be waived.

**WHEREFORE**, applicant respectfully prays that this Court grant the applicant's motion in its entirety, together with such other, further and additional relief as to this Court may seem just and proper.

Dated: Palisades, New York  
August 21, 2018

Yours, etc.

LAW OFFICE OF ROBERT L. GORDON  
Attorney for Creditor  
140-50 Burden Crescent Owners Corp.  
21 Swan Street  
Palisades, New York 10964  
(718) 267-9513

By: S/Robert L. Gordon  
Robert L. Gordon ( RG3443)

Return Date: September 17, 2018  
Time: 9:30 A.M.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK  
(CENTRAL ISLIP)

-----X  
In Re:

**AFFIDAVIT IN SUPPORT OF  
MOTION FOR RELIEF FROM THE  
AUTOMATIC STAY**

**CEZARY S. WYSOCKI,**

Chapter 7

Debtor.

Case No. 1-18-74507 (REG)

-----X  
STATE OF NEW YORK     )  
                                  : ss.:  
COUNTY OF QUEENS     )

Mark Novin, being duly sworn deposes and says:

1. I am the managing agent for 140-50 Burden Crescent Owners Corp., the fee owner of the cooperative premises located at 140-50 Burden Crescent, Briarwood, New York 11435, wherein the Debtor Cezary S. Wysocki ("Debtor") is the owner of the cooperative shares of stock and appurtenant proprietary lease allocated to unit 2E ("Unit").
2. This Affidavit is made in support of Creditor's motion for relief from the automatic stay by reason of Debtor's failure to pay post-petition rent installments as is required under Bankruptcy Code §362(d)(1). Debtor has failed to pay post-petition maintenance charges to Creditor at the monthly rate of \$452.03 such that \$860.32 in base post-petition rent is presently due and owing. Additionally, Debtor owes Creditor \$5,419.86 in pre-petition arrears, as well as the legal fees and disbursements for the instant motion.



3. The Creditor is entitled to relief from the automatic stay so as to enable the Creditor to complete the fully the summary proceeding in New York State Civil Court for the Debtor's eviction and to foreclose upon the cooperative shares of stock and proprietary lease allocated to the Unit.

4. It is apparent to your Deponent that the conduct of the Debtor in failing to meet his post-petition obligations and its filing of a petition in bankruptcy evidences his intent to utilize the bankruptcy forum as a means to pursue a dilatory course of conduct to prevent eviction from and foreclosure of the Units.

5. Such conduct should not be lightly countenanced by this Court.

6. The Creditor is entitled to relief from the automatic stay so as to enable Creditor to evict the Debtor under a warrant of eviction to be granted in a summary proceeding in New York City Landlord & Tenant Court.

**WHEREFORE**, it is respectfully submitted that Creditor's motion be granted in its entirety, together with such other and further relief to which this Court is just and proper.

s/Mark Novin

Sworn to before me this  
6<sup>th</sup> day of August, 2018  
s/Robert L. Gordon  
Qualified in Rockland County  
NOTARY PUBLIC No. 31-4752370  
Commission Expires June 29, 2019

**AFFIDAVIT OF SERVICE**

**STATE OF NEW YORK    )**  
**)ss.:**  
**COUNTY OF QUEENS    )**

SHIRLEY D. GORDON, being duly sworn deposes and says:

That I am over eighteen (18) years of age and reside at 21 Swan Street, Palisades, New York  
10964

That on August 21, 2018, I served a true copy of the Notice of Motion, Proposed Order,  
Affirmation in Support of Motion to Vacate the Automatic Stay , and Affidavit in Support of Motion  
to Vacate the Automatic Stay by mailing same in a sealed envelope, with postage prepaid thereon,  
in a post-office or official depository of the U.S. Postal Service within the State of New York, by  
regular mail, addressed to the last known address of the addressee as indicated below:

TO:

Cezary S. Wysocki  
50 Tree Road  
Centerreach, New York 11720

Rachel Cowart  
140-50 Burden Crescent  
Unit 2E  
Briarwood, New York 11435-2340

s/Shirley D. Gordon

Sworn to before me this  
21<sup>st</sup> day of August, 2018  
s/Robert L. Gordon  
Qualified in Rockland County  
NOTARY PUBLIC No. 31-4752370  
Commission Expires June 29, 2019